

83-151 -I

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December 16, 1983

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Mr. Michael A. Coltin  
Pupil Transportation Safety Administrator  
Division of Motor Vehicles  
Hazen Drive  
Concord, New Hampshire 03301

Dear Mr. Coltin:

By letter dated October 28, 1983, you requested a clarification of the meaning of three statutes concerning school buses, RSA 259:96, 263:29 and 266:7, and their applicability to non-public schools. It is our opinion that only drivers of vehicles used to transport school children by virtue of a contract with a municipality, municipal board or school board authorities must obtain the certification of the local authorities and pass the special driver exam. It is also our opinion, however, that the Director of Motor Vehicles has the authority and the duty to inspect any vehicle used to transport children to any school before it is used for that purpose.

RSA 259:96 states:

"'School bus' shall mean a vehicle owned by a public or governmental agency, or a privately owned vehicle, including a station wagon, suburban, panel body vehicle and vehicles converted to a school bus, but excluding a passenger vehicle, employed solely in transporting school children to and from school or school activities by virtue of a contract with a municipality, municipal board or school board authorities."



The definition of "school bus" is thus clearly limited to a vehicle used to transport children by virtue of a contract with a municipality or other entity. Since a vehicle used to transport children to a private school would certainly not do so by virtue of a contract with a municipality, municipal board or school board, such a vehicle would not fall within the definition of school bus.

RSA 263:29 requires the owner of a "school bus" to submit a list of the drivers of the bus "to the authorities in the town or city organization which pays for said transportation. ..." The authorities then certify drivers who are found to be qualified so that they may take an examination issued by the Director. The statute further states:

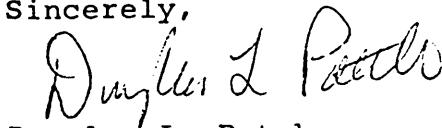
"No person shall drive a school bus unless he has satisfactorily passed the special examination for said driving and received from the department a special school bus driver's certificate therefor."

As noted earlier, the term "school bus" clearly excludes motor vehicles used to transport school children unless they are under a contract with a municipality, municipal board or school board authorities. Since RSA 263:29 specifically uses the term "school bus" and since the definition of school bus is to be applied throughout Title XXI, see RSA 259:1, the driver of a motor vehicle transporting school children that does not fall within the definitions of a school bus would not have to obtain certification and pass the examination cited in RSA 263:29.

RSA 266:7 gives the Director of Motor Vehicles the authority "to inspect any motor vehicle used for the purpose of transporting school children to any school to determine its fitness for such purpose. ..." Although this statute refers to the approval of a bus which passes inspection as a school bus and the failure to designate the vehicle as a school bus if it is unfit, the language of the statute quite clearly requires the inspection "before any motor vehicle transporting school children to any school is used for transportation" (emphasis added). Since the initial inspections are not limited to school buses as defined in RSA 259:96, the Director clearly has not only the authority, but the duty to inspect any motor vehicle that will be used to transport school children to any school, public or private.

I trust this opinion has responded to your questions.  
Please let me know if you require anything further.

Sincerely,



Douglas L. Patch  
Assistant Attorney General  
Division of Legal Counsel

DLP:ab

cc: Mr. Richard M. Flynn, Commissioner  
Mr. Earl M. Sweeney, Deputy Commissioner  
Mr. Thomas A. Power, Director

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